

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7705

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility ("AT&T"), for authority to)
install a wireless communications facility in)
Dorset, Vermont)

Order entered: 2/7/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the petition filed by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Order implementing standards and procedures under this section ("Procedures Order")¹, and grants the Petitioners a certificate of public good ("CPG") authorizing the installation of telecommunications facilities located in the Town of Dorset, Vermont (the "Project"), as part of Petitioner's Universal Mobile Telecommunications Service upgrade.

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on December 22, 2010, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of the facilities identified above.²

On January 14, 2011, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending that the Board issue a CPG authorizing installation of the Project without further evidence or hearings.

1. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 14, 2009.

2. AT&T filed its prefiled testimony largely in the form of a "project narrative" (exhibit JP-4-6.B.1) that addresses the applicable § 248a criteria. We find that this approach is sufficient for this type of project given that § 248a allows for a simplified review process. However, the Board notes that this approach may not be sufficient for other projects seeking Board approval under § 248, and the Board may require prefiled testimony in traditional question and answer form for those projects.

No other comments regarding the Project have been filed with the Board.

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project involves the installation of a new wireless telecommunications facility in Dorset, Vermont. The objective of the Project is to improve wireless telecommunications coverage in this area. The Project will also interconnect with other AT&T facilities, both existing facilities and those planned for construction in the future. Exh. JP-3-6.B.1 § III.

2. The Project is to be located at 2 Awesome View Drive in Dorset, Vermont. Exh. JP-3-6.B.1 § I.

3. The Project involves the installation of a new "monopine" telecommunications tower with antennas, an equipment shelter, a generator, and associated operating equipment within a new fenced compound on property leased by AT&T. The Project also includes the construction of a new access road and a parking/turn-around area. Exh. JP-3-6.B.1 § II.

4. The facilities include a new 145-foot-tall self-supporting monopine tower with up to twelve antennas, each measuring approximately 4.5 feet high by 12 inches wide by 6 inches deep, mounted at a height of 140 feet on the tower. The equipment shelter will be approximately 11.5 feet by 20 feet. The diesel-fueled generator will be mounted on a 4-foot by 11-foot platform within the 30-foot by 85-foot fenced compound. The Project also includes the construction of a new access road, extending 1,046 feet from an existing gravel road, and a parking/turn-around area, transformer and bollards to be located directly west of the compound. Exh JP-3-6.B.1 § II.

State Telecommunications Policy

[30 V.S.A. § 248a(a)]

5. The Project is consistent with the goal of directing the benefits of improved telecommunications technology to all Vermonters pursuant to 30 V.S.A. § 202c(b). The Project will allow interconnection with the other similar AT&T facilities comprising AT&T's Vermont

network, some of which have already been upgraded and others that are slated for improvements. Exh JP-3-6.B.1 § III.

**Aesthetics, Historical Sites, Air and Water Purity,
the Natural Environment, and Public Health and Safety**

[30 V.S.A. § 248a(c)(1)]

6. The Project will not have an undue adverse effect on aesthetics, historical sites, air and water purity, the natural environment, and the public health and safety. This finding is supported by findings 7 through 27 below, which are the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a) (1)-(8) and (9)(k).

Outstanding Resource Waters, Headwaters

[10 V.S.A. §§ 1424a(d), 6086(a)(1)(A)]

7. The Project will have no impact on outstanding resource waters or headwaters. Exh. JP-3-6.B.1 § IV.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

8. The Project will not result in undue water or air pollution. This finding is supported by findings 9 through 11, below.

9. Dust associated with construction vehicles will be controlled at the site. Exh. JP-3-6.B.1 § IV.

10. Noise associated with construction activities will be short term, and noise from the generator will be limited in the absence of a prolonged power outage. Exh. JP-3-6.B.1 § IV.

11. The Radio Frequency Radiation (RFR) associated with the Project will meet all standards prescribed by the Federal Communications Commission. Exh. JP-3-6.B.6.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

12. The Project does not involve disposal of wastes or injection of any material into ground water or wells. Exh. JP-3-6.B.1 § IV.

Water Conservation, Sufficiency of Water, and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(1)(C),(a)(2) and (3)]

13. The Project will have minimal impact on water conservation measures, as the Project will not be connected to water supplies. Exh. JP-3-6.B.1 § IV.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

14. The Project is not located in a floodway. Exh. JP-3-6.B.1 § IV.

Streams

[10 V.S.A. § 6086(a)(1)(E)]

15. The Project will not be located on, adjacent to, or near any streams or other water bodies. Exh. JP-3-6.B.1 § IV.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

16. The Project is not located on a shoreline. Exh. JP-3-6.B.1 § IV.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

17. The Project is not located near any wetlands. Exh. JP-3-6.B.1 § IV.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

18. The Project will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water. All construction work will comply with Vermont standards and specifications for erosion and sediment control. Exh. JP-3-6.B.1 § IV.

Transportation System

[10 V.S.A. § 6086(a)(5)]

19. The Project will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports or airways, and other means of transportation existing or proposed. Traffic to the unstaffed site will be limited following construction. Exh. JP-3-6.B.1 § IV.

Educational Services

[10 V.S.A. § 6086(a)(6)]

20. The Project will not cause an unreasonable burden on the ability of a municipality to provide educational services. Educational services will not be impacted by the Project. Exh. JP-3-6.B.1 § IV.

Municipal Services

[10 V.S.A. § 6086(a)(7)]

21. The Project will not place an unreasonable burden on the ability of the local government to provide municipal or governmental services. The Project will not require any additional municipal or governmental services. Exh. JP-3-6.B.1 § IV.

Aesthetics, Historical Sites, and Rare and Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

22. The Project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 23 through 25, below.

23. The Project will be located in a forested area and utilize a tapered monopine design to blend in with the existing tree canopy. The surrounding tree cover will provide screening and lessen the visual impact of the Project. Exh. JP-3-6.B.1 § IV.

24. There are no known historic sites within the immediate vicinity of the Project site. Exhs. JP-3-6.B.1 § IV; 6.B.7.

25. There are no known irreplaceable natural areas in the Project area. Exhs. JP-3-6.B.1 § IV; 6.B.7.

26. The Project will be located within an Indiana bat habitat area. AT&T will conduct no clearing in this area without prior approval of the Vermont Agency of Natural Resources outside the period from November 1 to April 1 because of potential impact on the bat population. No other threatened or endangered species and habitats have been identified in this area. Exhs. JP-3-6.B.1 § IV; 6.B.7.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

27. The Project will not unnecessarily or unreasonably endanger any public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to public investments. Exh. JP-3-6.B.1 § IV.

Town and Regional Plans

[30 V.S.A. § 248a(c)(2)]

28. By facilitating the expansion of telecommunications coverage in the area, the Project is consistent with the land conservation measures contained in the Dorset Town Plan and Bennington County Regional Plan. Exh. JP-3-6.B.1 §§ V, VI.

State and Local Permits

[30 V.S.A. § 248a(d)]

29. There are presently no permits related to the parcel on which the Project site is to be located. Exh. JP-3-6.B.1 § VII.

IV. DISCUSSION & CONCLUSION

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title.

Further, pursuant to the Procedures Order:

Unless the Board determines that an application raises a significant issue, it shall issue a final determination on an application within 90 days of its filing

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by

the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 7th day February, 2011.

<u>s/ James Volz</u>)	
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<u>s/ David C. Coen</u>)	PUBLIC SERVICE
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)	BOARD
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)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: February 7, 2011

ATTEST: s/ Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.